

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Robert L. Burchett,

Complainant,

vs.

Southern California Edison Company
(U338E),

Defendant.

(ECP)

Case 14-06-008

(Filed June 11, 2014)

Robert L. Burchett, for himself, Complainant.Prabha Cadambi for Southern California
Edison Company, Defendant.**DECISION GRANTING PARTIAL RELIEF****Summary**

Complainant, Robert L. Burchett, requests that the Defendant, Southern California Edison Company (SCE), refund \$250.00 which it debited his account due to alleged energy diversion and provide a credit \$466.55 that he estimates he would have otherwise received from the interconnection of his net energy metering (NEM) system to SCE's grid.

SCE answers that it acted at all times in compliance with all applicable rules, laws, regulations, and tariffs with respect to Complainant, Complainant's account, and both SCE- and Complainant-owned property at issue in this

dispute, including but not limited to, the meter, meter socket, meter panel, and circuit breakers. Therefore, SCE asks that the relief requested by Complainant be denied and this Complaint be dismissed.

We have determined that SCE has not substantiated its allegations of energy theft, and must therefore reverse the \$250.00 debit to Complainant's account. Complainant makes a credible case that the damage to his meter panel was caused by either SCE or, more likely, SCE's SmartMeter contractor. However, we decline to order SCE to provide a credit to Complainant for the amount of \$466.55, the amount that Complainant estimates he would have otherwise received from the interconnection of his net energy metering system to SCE's grid, because the information before us provides insufficient support for this estimate.

This case is closed.

1. Complainant's Contention

Complainant has been the Customer of Record at the address of 22826 Mariposa Avenue, Torrance, California (Service Property), since July 2001. We note that the Complainant made this Expedited Complaint Procedure (ECP) filing in June, 2014 after the Commission's Consumer Affairs Branch (CAB) denied his informal complaint, Complaint #310086.¹

Complainant alleges that Southern California Edison Company (SCE) erroneously debited his account in the amount of \$250.00 due to possible energy diversion; caused damage to his meter socket and panel resulting in such energy

¹ Complainant filed Complaint #310086 on February 4, 2014. CAB denied the Complaint in a letter to Complainant dated February 27, 2014. Complainant filed an informal appeal with CAB, which CAB denied on April 29, 2014.

diversion; and because of the energy diversion, he lost credit he would have otherwise received from the interconnection of his net energy metering (NEM) system to SCE's grid. Complainant is requesting that SCE credit his account in the amount of \$717.55. This amount includes the aforementioned \$250.00 debit to the Complainant's account and an additional \$466.55 Complainant estimates he would have accumulated as credit on his account for NEM but for SCE's alleged damage to his meter panel.²

2. Defendant's Answer

In its Answer, SCE provides additional background and addresses each of the Complainant's allegations, as follows:

- On October 1, 2013, SCE received an application for NEM, Interconnection Agreement, and final inspection report on behalf of Complainant for installation of a NEM system on the Service Property.
- On October 31, 2013, SCE approved the interconnection of Complainant's NEM system to SCE's grid, and SCE issued a NEM Permit to Operate (PTO) to Complainant on November 2, 2013.
- On November 1, 2013, SCE's meter technician visited the Service Property to replace the existing meter with a new SCE SmartConnect® meter. However, the technician was unable to complete the meter change at that time because she noted there was a bypass connected to the bottom load-side panel clips (referred to as the C and D clips) and power was running through to the customer's circuit breakers, even when the breaker for the solar equipment

² Complainant calculates the credit due as follows: assuming an average monthly bill of \$400, and 30 days in a month, that equates to an average daily cost of \$13.33. Complainant's NEM system was delayed for 35 days, which equates to a "loss" of \$466.55.

was turned off, and the meter was outside the socket.³ Following SCE's safety protocol, the technician did not replace the meter, but instead put a plastic cover over the open socket for safety and installed an SCE lock ring on the plastic cover.

- On November 5, 2013, SCE's revenue protection investigator visited the property and inspected the meter socket and panel based on the technician's findings. The investigator discovered two metal bars behind the line-side panel clips (referred to as the A and B clips) connected directly to the C and D clips leading directly to the customer's circuit breakers. This confirmed the presence of a bypass because these metal bars were running electricity directly from SCE's grid via the load-side clips into the panel's circuit breakers without first connecting to the line-side clips, and, therefore without the meter recording the usage.
- SCE's investigator spoke with the Complainant by phone at that time and advised him of the situation and directed Complainant to remedy the situation on or before November 20, 2013. He further advised the Complainant that SCE was authorized to rebill his account for the unauthorized use, and that SCE may disconnect service to the Service Property until the bypass was removed to protect Complainant's property from any potential fire hazard.
- Complainant's representative who was present at the Service Property at the time of the investigation was shown the bypass and he acknowledged its presence.
- Once SCE was notified that the bypass was removed, the new SmartConnect meter was installed and set on November 25, 2013.

³ SCE states that a panel that is functioning correctly (without a bypass) would indicate no energy running through these C and D clips when the meter is removed from the socket.

- Pursuant to SCE's tariff, Schedule NEM, Complainant's account is established on an Annual Billing Option. Because the revenue protection investigator was unable to determine how much energy had been diverted directly to the Service Property without being registered by the meter as a result of the bypass, SCE debited Complainant's account a flat fee of \$250.00 as a rebill for unauthorized use pursuant to SCE's Tariff Rule 17.E.2
- SCE denies it is responsible for any loss of potential credit estimated by Complainant that he may have accrued for any overgenerated solar power produced by his NEM system had it been properly connected to SCE's grid as of November 2, 2013 (the date of issuance of Complainant's PTO); SCE further denies that it owes Complainant any reimbursement for such alleged estimated credit.
- SCE denies that Complainant's NEM system was supplying 100% of the electricity to the Service Property during the time the existing meter was removed from the socket and the new SmartConnect meter was installed. The meter technician who removed the meter from the socket on November 1, 2013, measured 240 volts of electricity on the load-side clips running through to Complainant's circuit breakers AFTER the meter was removed. Therefore, it is reasonable to say that the Service Property was still receiving a constant flow of at least 240 volts of SCE-transmitted electricity during that period.
- SCE notes that the bill provided by the Complainant shows that from December 11, 2013, to January 13, 2014 (after Complainant's meter panel was repaired, a SmartConnect meter was installed, and his NEM system was properly connected to SCE's grid) Complainant's NEM system generated 131 kilowatts (kWh) of his total energy usage for that period, and the remaining 937 kWh of his total energy consumption was delivered through SCE's system. There was no credit to Complainant's account for any overgenerated NEM power sent back into SCE's grid during this billing period.

Based on the above, SCE asks that the relief requested by Complainant be denied and this Complaint be dismissed.

3. Hearing

A hearing was conducted before the assigned Administrative Law Judge (ALJ) on September 12, 2014 (Complainant also propounded discovery on SCE, for the purpose of better establishing the timeline of events related to his complaint. SCE provided written responses to Complainant's questions on July 28, 2014 and August 1, 2014). At the hearing, Complainant was accompanied by his solar installer and his electric contractor. Defendant was represented by Ms. Cadambi, who was accompanied by Ms. Kirkwood and Mr. Ashley, SCE's revenue protection investigator.

After spending several minutes reviewing the complaint and SCE's answer, the ALJ and the other attendees examined a meter panel similar to that installed at Complainant's premises, and discussed both sides of the "bypass" issue. It was not apparent to the ALJ why, if "metal bars" had been installed as alleged by SCE, a number of photos of the Complainant's meter panel provided by both the Complainant and SCE did not clearly show the foreign objects that SCE alleged to exist and have been the means of effecting bypass. SCE could not answer this question. Complainant and his electric contractor advanced an alternative theory, that prior work on the panel by either SCE personnel or SCE contractors had been done in such a manner that the plastic insulators within the panel had cracked and disintegrated, allowing metal-on-metal contact that inadvertently caused what SCE later described as "bypass".

Following the examination of the meter panel, the ALJ also reviewed SCE's responses to Complainant's discovery. The ALJ questioned SCE representatives regarding two earlier visits to Complainant's premises. According to SCE's

discovery responses, these visits took place in 2011, during the period when SCE's contractor, CORIX, was installing smart meters in SCE's service territory pursuant to SCE's SmartConnect Deployment Plan. According to SCE, on two occasions in 2011 CORIX visited the Service Property, to attempt to install a SmartConnect meter.⁴ SCE states that CORIX was unable to complete the installation due to a voltage discrepancy that CORIX personnel detected at the meter. Complainant's account was identified by CORIX as an "unable to change" (UTC) account. Edison's SmartConnect mass deployment was completed as of December 31, 2012, at which time CORIX turned over all UTC accounts to SCE for completion.

SCE began its "clean-up" effort to address the UTC accounts in June, 2013. SCE states that when the SCE meter technician visited the Service Property on November 1, 2013 to replace the existing meter with a new SCE SmartConnect® meter, the technician was unable to complete the meter change at that time due to discovery of a possible meter bypass. Following SCE protocol, the technician did not replace the meter, but instead put a plastic cover over the open socket for safety (this is referred to as "pieplating") and installed an SCE lock ring on the plastic cover.

SCE states in its Answer that the bypass presented "risk of fire or other safety hazard". However, SCE could not explain at hearings why this bypass-induced safety hazard was left in place for almost 3 years after the same condition was discovered by CORIX in January and July, 2011: on neither occasion did SCE follow-up on the matter. In short, whatever was observed in 2011 was left in place until 2013, when SCE "pieplated" the meter panel, followed

⁴ CORIX visited the Service Property on January 22, 2011, and again on July 19, 2011.

on the next day by the visit from Mr. Ashley. SCE's failure to follow up on the CORIX discovery is important for our resolution of this Complaint, because we cannot rule out the possibility that CORIX itself damaged Complainant's meter panel in 2011, even if inadvertently, thus creating the "bypass" that SCE later cited as cause to initiate disconnection procedures, as well as to debit Complainant's account \$250.00 and interrupt provision of NEM credits to Complainant.

4. Discussion

We have reviewed the underlying facts in this dispute, and based on that review we find in favor of the Complainant with respect to Complainant's request for a refund of \$250.00. We deny Complainant's request for a NEM credit of \$466.55.

SCE asserts that it is permitted under Tariff Rule 17.E.4. to disconnect service without notice when it determines unauthorized use is occurring, and was thus justified in threatening service disconnection within 2 weeks of Mr. Ashley's visit. However, SCE could not explain why the very same conditions did not trigger a similarly urgent response when they were observed by CORIX in 2011. If suspected theft—and the concomitant unsafe conditions--was observed in 2011, and if theft and safety are high priority matters for SCE, why did SCE leave the installation in place for almost three years, from January, 2011 until November, 2013? Given its dramatically differing responses to identical circumstances, SCE's assertions regarding the 2013 matter are not credible, and therefore do not support SCE's seizing of the \$250 from the Complainants' account. Therefore, SCE shall reverse the \$250 debit that it made to the Complainant's account in January, 2014.

Regarding the NEM credit, because we only have one month of billing information before us, we are convinced by SCE's rebuttal of Complainant's estimate of the lost NEM credit. The billing data appears to confirm that, for that month at least, most of the Complainant's power was provided by SCE, not the NEM system, and no overgenerated NEM power was sent back into SCE's grid during this billing period. Therefore, we deny Complainant's request that we order SCE to provide an additional \$466.55 NEM credit to the Complainant.

Assignment of Proceeding

Michael Picker is the assigned Commissioner and Stephen C. Roscow is the assigned ALJ in this proceeding.

O R D E R**IT IS ORDERED** that:

1. Southern California Edison Company shall reverse the \$250.00 debit that it made to the Complainant's account in January, 2014.
2. All other requests for relief are denied.
3. Case 14-06-008 is closed.

This order is effective today.

Dated _____, at San Francisco, California.